Rejections Under 35 U.S.C. §103

Claims 1-6, 8-16 and 18-20 were rejected under 35 U.S.C. §103(a) as being unpatentable

over Moore et al. (U.S. 6,408,342).

Moore describes Decision logic, at column 19, lines 37-55 as follows:

"...Quality of Service ... The apply{character pullout} call may receive a CallInfo
argument or an argument which refers to a CallInfo object. A CallInfo is an object (or a reference
to an object) that is a collection of Quality of Service (QoS) parameters. Examples of such
parameters include performance characteristics (e.g., throughput, latency), rebinding policy,
payment mechanism, security policy, quality of protection (e.g., encryption, privacy,
authentication, authorization lists), and concurrency policy.
      Both the caller and callee may manipulate the CallInfo argument. For example the
initiating process may set a performance metric requirement. In response to such a request, the
callee process may provide a CallInfo parameter indicating its performance capabilities.
      CallInfo is an extensible list of QoS parameters. One example of its use is where a client
wishes to indicate to the server the maximum amount of time the server should take to complete
a request (this is often called a server deadline). The client application can indicate a maximum
timeout for the RPC_Client 311 and a maximum deadline (for the RPC_Server).
...The Stub object 303 contains a decision logic for determining which protocol to use in
accessing the target object of a remote method invocation. In the alternative embodiment where
the Stub 303 creates a Request object, the Request object contains the decision logic. In initiating
a call, the Stub 303 may put in a request for a particular QoS requirement. *An RPC_Transport
305 asserts to the Stub 303 which QoS level it can meet (for each QoS parameter it understands).*
      *The decision logic uses the tag--value pair profiles to select a protocol with which it
can connect to the target object associated with the ObjectReference 501 specified as the first
argument in the apply{character pullout} call.* If the target object is accessible over multiple
protocols (i.e., both the client and the server support more than one protocol in common), the
protocol with the matching the Quality of Service (QoS) required by the Stub 303 is selected..."
(Emphasis added by Applicant)

The Examiner states, at pages 3-4 of the final Office Action: "...

While teaching a quality of service level to the detected connection in accordance with the flow

information, Moore does not explicitly teach associating a quality of service level to the detected

connection in accordance with the flow information.... Moore discloses "In initiating a call, the

stub 303 may put in a request for a particular QoS requirement... the protocol with the matching

QoS (QoS) required by the Stub 303 is selected..." ... It would have been obvious to one of ordinary skill in the art to have applied the teaching of Moore for "associating a quality of service level to the detected connection in accordance with the flow information" in order to provide the evolution of communications in the network system using remote procedure calls..."

No motivation for the modification suggested by the Examiner

It is well established that in order to support a rejection sufficient motivation for supporting the combination need be shown or suggested by the Examiner. The motivation proffered by the Examiner in the present case is "in order to provide evolution of communications in the network system..." Applicant's submit that this motivation is insufficient to support a rejection under 35 U.S.C. §103.

It is well established that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant's submit that the Examiner's reasoning falls within the realm of motivations deemed unacceptable by Mills, and accordingly submit that the rejection is improper and should be withdrawn.

Combination neither describes nor suggests the claimed invention
Claims 1-20:

Assuming, *arguendo*, that a motivation can be found for the modification suggested by the Examiner, Applicants submit that the modified reference still does not teach or suggest the limitations of the present claims.

For example, claim 1 includes the steps of "...using a side channel to communicate flow information associated with the detected connection to a classifying router, *the flow information including a port number associated with the communication*; and incorporating the flow information into a differentiated services classification subsystem of the classifying router *by associating a quality of service level to the detected connection in accordance with the flow information..*"

In Moore describes a system of negotiated 'QoS', whereby 'Both the caller and callee may manipulate the CallInfo', where 'Callinfo is an object ... that is a collection of QoS parameters...' (Moore, column 19). In Moore, although the Stub 303 puts in a request for a particular QoS, the RPC_Transport 305 asserts to the Stub 303 which QoS level it can meet. The portion of the specification provided by the Examine illustrates that the Stub then chooses a protocol according to the QoS that is made available by the server. Such a construct is different from that recited in the claims of the present invention, where the QoS for a flow is based on the flow information from the client.

Accordingly, for at least this reason, claim 1 is patentably distinct over Moore, and the rejection should be withdrawn. Independent claim 11 includes similar limitations, and is patentable for reasons similar to those put forth with regard to claim 1.

Dependent claims 2-10 and 12-20 serve to add further patentable limitations to their parent independent claims, and are allowable for at least the reasons put forth with regard to the parent claims. However, each claim also includes limitations that are patentably distinct over Moore.

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<u>Claims 6, 8:</u>

For example, Applicant's claims 6 and 8 each recite "...wherein the flow information

includes a five-tuple including sender and receiver Media Access Control (MAC) and Internet

Protocol (IP) addresses, sender and receiver MAC and IP port numbers, and Transmission

Control Protocol (TCP) protocol type for the connection...." Although the Examiner states, at

page 4 of the Office Action that Moore 'teaches MAC and IP addresses ... and MAC and IP port

numbers ... and TCP protocol type..." Applicants note that these elements are not disclosed in

Moore in the same arrangement as they are recited in the claims. Rather, Applicant's note that

claim 6 depends from claim 1, wherein the forwarding information is incorporated "...into a

differentiated services classification subsystem of the classifying router by associating a quality

of service level to the detected connection in accordance with the flow information..." No such

structure is shown or suggested in Moore. Accordingly, for this additional reason claims 6 and 8

are patentably distinct over Moore, and the rejection should be withdrawn.

<u>Claims 7 and 14:</u>

Claims 7 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Moore

in view of Aharoni et al. (U.S. 6,014,694). However, Applicant's notice that the Examiner

refers, in the text of the rejection, to U.S. patent 6,412,000. Aharoni is not cited in any IDS or

record in this application, so Applicant will assume that a typographical error has occurred, and

that the Examiner means to indicate that claims 7 and 14 are rejected under 35 U.S.C. §103 as

being unpatentable over Moore in view of Riddle.

Riddle describes, in a packet communication environment, a method is provided for automatically classifying packet flows for use in allocating bandwidth resources by a rule of assignment of a service level. The method comprises applying individual instances of traffic classification paradigms to packet network flows based on selectable information obtained from a plurality of layers of a multi-layered communication protocol in order to define a characteristic class, then mapping the flow to the defined traffic class. It is useful to note that the automatic classification is sufficiently robust to classify a complete enumeration of the possible traffic.

Accordingly, Riddle describes an entirely different method of packet classification, where classes are automatically assigned service levels. Accordingly, the combination of Riddle with Moore fails to overcome the previously described inadequacies of the references.

Applicants have made a diligent effort to place the claims in condition for allowance.

However, should there remain unresolved issues that require adverse action, it is respectfully

requested that the Examiner telephone Lindsay G. McGuinness, Applicants' Attorney at 978-264-

6664 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now

considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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